

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

TEXTILE COMPUTER SYSTEMS, INC.,

Plaintiff,

v.

BROADWAY NATIONAL BANK D/B/A
BROADWAY BANK, FISERV, INC.,
FISERV SOLUTIONS, LLC, U.S.
BANCORP, AND U.S. BANK NATIONAL
ASSOCIATION D/B/A ELAN
FINANCIAL SERVICES,

Defendants.

CIVIL ACTION NO. 6:21-cv-01050-ADA

JURY TRIAL DEMANDED

ANSWER TO BROADWAY'S COUNTERCLAIMS

Plaintiff Textile Computer Systems, Inc. ("Textile") files this answer to the counterclaims of Defendant Broadway National Bank d/b/a Broadway Bank ("Broadway"), based on its own knowledge as to itself and its own actions and based on information and belief as to all other matters, as follows. Any allegation not specifically admitted is denied:

Nature of the Action

1. Admitted that Broadway seeks a declaratory judgment with respect to the patentability, validity, and infringement of the asserted patents. Otherwise denied.

Jurisdiction and Venue

2. Admitted that this Court has jurisdiction over Broadway's Declaratory Judgment claims and subject matter jurisdiction. Admitted that Broadway seeks a declaratory judgment with respect to the patentability, validity, and infringement of the asserted patents. Admitted that venue is proper in this District. Otherwise denied.

The Parties

3. Admitted.

4. Admitted that Textile is a corporation organized and existing under the laws of the State of Texas that maintains its principal place of business at 6517 Springwood Court, Temple, Texas 76502. Otherwise denied.

Alleged Acts Giving Rise to the Counterclaim

5. Admitted.

6. Admitted.

7. Admitted that an actual controversy exists between Broadway and Textile concerning patentability, validity, enforceability, and infringement. Otherwise denied.

8. Denied.

COUNTERCLAIM COUNT I

(ALLEGED UNPATENTABILITY OF U.S. PATENT NO. 8,505,079)

9. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-8 above. Any allegation not specifically admitted is denied.

10. Denied.

11. Admitted that an actual controversy has arisen and now exists between Broadway and Textile concerning the patentability of U.S. Patent No. 8,505,079 (“the 079 Patent”). Otherwise denied.

12. Admitted that Broadway seeks a declaratory judgment of unpatentability. Otherwise denied.

COUNTERCLAIM COUNT II

(ALLEGED INVALIDITY OF U.S. PATENT NO. 8,505,079)

13. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-12 above. Any allegation not specifically admitted is denied.

14. Denied.

15. Admitted that Broadway seeks a declaratory judgment of invalidity. Otherwise denied.

COUNTERCLAIM COUNT III

(ALLEGED NON-INFRINGEMENT OF U.S. PATENT NO. 8,505,079)

16. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-15 above. Any allegation not specifically admitted is denied.

17. Denied.

18. Admitted that an actual controversy has arisen and now exists between Broadway and Textile concerning infringement of the 079 Patent. Otherwise denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Admitted that Broadway seeks a declaratory judgment of non-infringement. Otherwise denied.

COUNTERCLAIM COUNT IV

(ALLEGED UNPATENTABILITY OF U.S. PAT. NO. 8,533,802)

24. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-23 above. Any allegation not specifically admitted is denied.

25. Denied.

26. Admitted that an actual controversy has arisen and now exists between Broadway and Textile concerning the patentability of U.S. Patent No. 8,533,802 (“the 802 Patent”).

Otherwise denied.

27. Admitted that Broadway seeks a declaratory judgment of unpatentability.

Otherwise denied.

COUNTERCLAIM COUNT V

(ALLEGED INVALIDITY OF U.S. PAT. NO. 8,533,802)

28. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-27 above. Any allegation not specifically admitted is denied.

29. Denied.

30. Admitted that Broadway seeks a declaratory judgment of invalidity. Otherwise denied.

COUNTERCLAIM COUNT VI

(ALLEGED NON-INFRINGEMENT OF U.S. PAT. NO. 8,533,802)

31. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-30 above. Any allegation not specifically admitted is denied.

32. Denied.

33. Admitted that an actual controversy has arisen and now exists between Broadway and Textile concerning infringement of the 802 Patent. Otherwise denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Admitted that Broadway seeks a declaratory judgment of non-infringement.

Otherwise denied.

COUNTERCLAIM COUNT VII

(ALLEGED UNPATENTABILITY OF U.S. PAT. NO. 9,584,499)

39. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-38 above. Any allegation not specifically admitted is denied.

40. Denied.

41. Admitted that an actual controversy has arisen and now exists between Broadway and Textile concerning the patentability of U.S. Patent No. 9,584,499 (“the 499 Patent”).

Otherwise denied.

42. Admitted that Broadway seeks a declaratory judgment of unpatentability.

Otherwise denied.

COUNTERCLAIM COUNT VIII

(ALLEGED INVALIDITY OF U.S. PAT. NO. 9,584,499)

43. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-42 above. Any allegation not specifically admitted is denied.

44. Denied.

45. Admitted that Broadway seeks a declaratory judgment of invalidity. Otherwise denied.

COUNTERCLAIM COUNT IX

(ALLEGED NON-INFRINGEMENT OF U.S. PAT. NO. 9,584,499)

46. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-45 above. Any allegation not specifically admitted is denied.

47. Denied.

48. Admitted that an actual controversy has arisen and now exists between Broadway and Textile concerning infringement of the 499 Patent. Otherwise denied.

49. Denied.

50. Denied.

51. Admitted that Broadway seeks a declaratory judgment of non-infringement. Otherwise denied.

COUNTERCLAIM COUNT X

(ALLEGED UNPATENTABILITY OF U.S. PAT. NO. 10,148,659)

52. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-51 above. Any allegation not specifically admitted is denied.

53. Denied.

54. Admitted that an actual controversy has arisen and now exists between Broadway and Textile concerning the patentability of U.S. Patent No. 10,148,659 (“the 659 Patent”). Otherwise denied.

55. Admitted that Broadway seeks a declaratory judgment of unpatentability. Otherwise denied.

COUNTERCLAIM COUNT XI

(ALLEGED INVALIDITY OF U.S. PAT. NO. 10,148,659)

56. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-55 above. Any allegation not specifically admitted is denied.

57. Denied.

58. Admitted that Broadway seeks a declaratory judgment of invalidity. Otherwise denied.

COUNTERCLAIM COUNT XII

(ALLEGED NON-INFRINGEMENT OF U.S. PAT. NO. 10,148,659)

59. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-58 above. Any allegation not specifically admitted is denied.

60. Denied.

61. Admitted that an actual controversy has arisen and now exists between Broadway and Textile concerning infringement of the 659 Patent. Otherwise denied.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

66. Admitted that Broadway seeks a declaratory judgment of non-infringement. Otherwise denied.

COUNTERCLAIM COUNT XIII

(ALLEGED UNPATENTABILITY OF U.S. PAT. NO. 10,560,454)

67. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-66 above. Any allegation not specifically admitted is denied.

68. Denied.

69. Admitted that an actual controversy has arisen and now exists between Broadway and Textile concerning the patentability of U.S. Patent No. 10,560,454 (“the 454 Patent”). Otherwise denied.

70. Admitted that Broadway seeks a declaratory judgment of unpatentability. Otherwise denied.

COUNTERCLAIM COUNT XIV

(ALLEGED INVALIDITY OF U.S. PAT. NO. 10,560,454)

71. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-70 above. Any allegation not specifically admitted is denied.

72. Denied.

73. Admitted that Broadway seeks a declaratory judgment of invalidity. Otherwise denied.

COUNTERCLAIM COUNT XV

(ALLEGED NON-INFRINGEMENT OF U.S. PAT. NO. 10,560,454)

74. Textile hereby repeats and re-alleges the admissions and denials contained in paragraphs 1-73 above. Any allegation not specifically admitted is denied.

75. Denied.

76. Admitted that an actual controversy has arisen and now exists between Broadway and Textile concerning infringement of the 454 Patent. Otherwise denied.

77. Denied.

78. Denied.

79. Denied.

80. Denied.

81. Admitted that Broadway seeks a declaratory judgment of non-infringement. Otherwise denied.

PRAYER FOR RELIEF

Textile denies that Broadway is entitled to any of the relief for which it prays.

JURY DEMAND

Textile demands a trial by jury on all issues so triable by right.

DEFENSES

First Defense

1. Claims 1, 3, 6-9, 11, 13, and 16-19 of the 079 Patent were the subject of an inter partes review (IPR2017-00296) that resulted in a final written decision under 35 U.S.C. § 318(a). Unified Patents was the petitioner in that inter partes review. Because Broadway is a privy of Unified Patents and/or a privy of at least one member of Unified Patents who was a real party in interest, Broadway is estopped from asserting that any of those claims is invalid on any ground that the petitioner raised or reasonably could have raised during that inter partes review.

Dated: November 15, 2022

Respectfully submitted,

/s/ Matthew J. Antonelli

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